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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,139	03/29/2004	Pavan Deolasee	VRTS/0702	2165
44743 7590 01/05/2007 RAYMOND R. MOSER JR., ESQ. MOSER IP LAW GROUP/VERTAS SOFTWARE CORPORATION 1040 BROAD STREET 2ND FLOOR SHREWSBURY, NJ 07702			EXAMINER BONURA, TIMOTHY M	
			ART UNIT 2114	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/812,139	Applicant(s) DEOLASEE ET AL.	
	Examiner Tim Bonura	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-19 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/01/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- **Claims 1-10 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Corbin, et al, U.S. Patent Number 5,734,814.**

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Corbin, et al, U.S. Patent Number 5,734,814.
3. Regarding claim 1:
 - a. Regarding the limitation of “accessing checkpoint data within the production server,” Corbin discloses a system with a cache for storing data and parity of checkpoints. (Lines 1-3 of Column 2)
 - b. Regarding the limitation of “distributing the checkpoint data; and storing the distributed checkpoint data on the plurality of backup servers,” Corbin discloses a system with wherein the checkpoint data can be distributing across disk drives using a RAID-5 configuration for data and parity information. (Lines 16-22 of Column 2).
4. Regarding claim 2, Corbin discloses a system with RAID-5, which inherently includes copying the data and parity to drives and storing the data on them. (Lines 16-22 and Lines 58-60 of Column 2).

Art Unit: 2114

5. Regarding claim 3, Corbin discloses a system with RAID-5, which inherently includes creating sub-segments groups of data to be spread across the disk drives. (Lines 58-60 of Column 2).
6. Regarding claim 4, Corbin discloses a system with RAID-5, which inherently includes striping across a plurality of disks. (Lines 58-60 of Column 2).
7. Regarding claim 5, Corbin discloses a system with RAID-5, which inherently includes creating parity groups. (Lines 58-60 of Column 2).
8. Regarding claim 6, Corbin discloses a system with RAID-5, which inherently includes striping across a plurality of disks and creating parity groups. (Lines 58-60 of Column 2).
9. Regarding claim 7, Corbin discloses a system with RAID-5, which involves mirror data across a plurality of disk drives. (Lines 58-60 of Column 2).
10. Regarding claim 8, Corbin discloses a system wherein the data can be recovered from the RAID-5 system from a failure of the system by reconstructing data from parity information. (Lines 4-20 of Column 7).
11. Regarding claim 9:
 - c. Regarding the limitation of "a production server for generating checkpoint data," Corbin discloses a system with a cache for storing data and parity of checkpoints. (Lines 1-3 of Column 2)
 - d. Regarding the limitation of "means for forming distributed checkpoint data comprising sub-segments of the checkpoint data," Corbin discloses a system with RAID-5, which inherently includes creating sub-segments groups of data to be spread across the disk drives. (Lines 58-60 of Column 2).
 - e. Regarding the limitation of "a plurality of backup servers for storing the distributed checkpoint data, where each of the backup servers in said plurality of backup servers

Art Unit: 2114

stores at least one sub-segment of the distributed checkpoint data," Corbin discloses a system with wherein the checkpoint data can be distributing across disk drives using a RAID-5 configuration for data and parity information. (Lines 16-22 of Column 2).

12. Regarding claim 10, Corbin discloses a system wherein the party and data are calculated on the computer system. (Lines 6-8 of Column 2).

13. Regarding claim 12, Corbin discloses a system wherein the party and data are calculated on the computer system. (Lines 6-8 of Column 2).

14. Regarding claim 13, Corbin discloses a system with RAID-5, which inherently includes striping across a plurality of disks and creating parity groups. (Lines 58-60 of Column 2).

15. Regarding claim 14, Corbin discloses a system with a cache for storing data and parity of checkpoints. (Lines 1-3 of Column 2). Corbin discloses a system with wherein the checkpoint data can be distributing across disk drives using a RAID-5 configuration for data and parity information. (Lines 16-22 of Column 2).

16. Regarding claim 15, Corbin discloses a system with RAID-5, which inherently includes creating parity groups. (Lines 58-60 of Column 2).

17. Regarding claim 16, Corbin discloses a system with RAID-5, which inherently includes striping across a plurality of disks and creating parity groups. (Lines 58-60 of Column 2).

18. Regarding claim 17:

f. Regarding the limitation of "accessing checkpoint data that is produced by a first server," Corbin discloses a system with a cache for storing data and parity of checkpoints. (Lines 1-3 of Column 2)

g. Regarding the limitation of "segmenting the checkpoint data; and supplying the segments of checkpoint data to a plurality of second servers," Corbin discloses a system

Art Unit: 2114

with wherein the checkpoint data can be segmented across disk drives using a RAID-5 configuration for data and parity information. (Lines 16-22 of Column 2).

19. Regarding claim 18, Corbin discloses a system with RAID-5, which inherently includes creating parity groups. (Lines 58-60 of Column 2).

20. Regarding claim 19, Corbin discloses a system with RAID-5, which inherently includes striping across a plurality of disks and creating parity groups. (Lines 58-60 of Column 2).

Allowable Subject Matter

21. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- The examiner can be reached at: **571-272-3654**.

23. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Scott Baderman**.

- The supervisor can be reached on **571-272-3644**.

24. The fax phone numbers for the organization where this application or proceeding is assigned are:

- **703-872-9306 for all patent related correspondence by FAX.**

Art Unit: 2114

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

26. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.

27. Responses should be mailed to:

- **Commissioner of Patents and Trademarks**

P.O. Box 1450

Alexandria, VA 22313-1450

Tim Bonura
Examiner
Art Unit 2114

A handwritten signature in black ink, appearing to read 'Tim Bonura', with a stylized flourish at the end.

January 3, 2007